IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WRS, INC., d/b/a WRS MOTION PICTURE LABORATORIES, a corporation,

Plaintiff,

vs.

PLAZA ENTERTAINMENT, INC., a corporation, ERIC PARKINSON, an individual, CHARLES von BERNUTH, an individual and JOHN HERKLOTZ, an individual,

Defendants.

CIVIL ACTION

No. 00-2041

MOTION FOR ORDER DIRECTING DEFENDANT, CHARLES von BERNUTH, TO SHOW CAUSE WHY DEFAULT SHOULD NOT BE ENTERED FOR FAILURE TO DEFEND

AND NOW comes, WRS, Inc. d/b/a WRS Motion Picture Laboratories, a corporation, by and through its counsel, Thomas E. Reilly, P.C., and avers as follows:

1. On March 9, 2006 the Court conducted a settlement conference in the within case at which time Defendant, Charles von Bernuth, appeared through his counsel, John Gibson.

2. At the settlement conference, Attorney Gibson, on behalf of Charles von Bernuth, agreed with counsel for Defendant, John Herklotz, and counsel for Plaintiff, WRS, Inc., to retain an accountant to review Plaintiff's records as to damages claimed and to share the cost of the accountant.

3. Pursuant to the Agreement, counsel for Plaintiff, counsel for Defendant, Herklotz, and counsel for Defendant, Charles von Bernuth, executed a Stipulation, which

required each party to pay one-third of the cost of the accountant. A true and correct copy of this Stipulation is attached hereto.

4. On Wednesday, March 22, 2006, counsel for Plaintiff, Herklotz and von Bernuth met with Thomas Claasan of Schneider Downs, at which time it was determined that a retainer in the sum of $15,000.00 was necessary for Schneider Downs to commence their work with respect to their review of the Plaintiff's records.

5. Each party agreed to provide one-third of the cost of the accountant.

6. As of April 7, 2006, Herklotz and Plaintiff have each paid $5,000.00 to the accountant.

7. Furthermore, at the Pre-Trial Conference on March 9, 2006, Attorney Gibson, counsel for Charles von Bernuth, indicated his intention to file a Motion for Summary Judgment on behalf of Charles von Bernuth and the Court imposed the deadline for all parties who had not done so to file Motions for Summary Judgment on or before March 23, 2006.

8. Notwithstanding the stated intention of counsel for Charles von Bernuth, Attorney Gibson did not file a Motion for Summary Judgment by the deadline set by the Court.

9. For the reasons set forth above, Plaintiff believes that Charles von Bernuth is no longer participating in the defense of this case.

10. An Order should be entered requiring Defendant, Charles von Bernuth, to show cause why default should not be entered.

WHEREFORE, WRS, Inc. d/b/a WRS Motion Picture Laboratories respectfully requests that the Court enter an Order directing Charles von Bernuth to show cause why default should not be entered for failure to defend.

THOMAS E. REILLY, P.C.

BY:____/s/ Thomas E. Reilly_______
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